

**ASSEMBLY BILL**

**No. 1572**

---

**Introduced by Assembly Member Eggman**  
**(Coauthor: Assembly Member Skinner)**  
(Coauthor: Senator Block)

January 30, 2014

---

An act to amend Sections 1569.157 and 1569.158 of the Health and Safety Code, relating to residential care facilities for the elderly.

LEGISLATIVE COUNSEL'S DIGEST

AB 1572, as introduced, Eggman. Residential care facilities for the elderly: resident and family councils.

Existing law provides for the licensure and regulation of residential care facilities for the elderly by the State Department of Social Services and makes a violation of those provisions punishable as a misdemeanor, except as specified.

Existing law requires every licensed residential care facility for the elderly, at the request of a majority of its residents, to assist the residents in establishing and maintaining a resident-oriented facility council. Existing law requires the council to be composed of residents of the facility and authorizes the inclusion of family members of residents of the facility on the council. Existing law authorizes the council to, among other things, make recommendations to facility administrators to improve the quality of daily living in the facility and negotiate to protect residents' rights with facility administrators. Existing law authorizes the assessment of specified civil fines for violations of this provision.

This bill would instead require every licensed residential care facility for the elderly, at the request of 2 or more residents, to assist the residents in establishing and maintaining a resident council, as specified.

The bill would authorize facility staff or others to participate in resident council meetings and activities at the invitation of the council. The bill would authorize a resident council to, among other things, make recommendations to facility administrators to improve the quality of daily living and care in the facility and to promote and protect residents' rights. The bill would require facilities with resident councils to, among other things, consider the recommendations of its council and to respond in writing to any action or inaction taken in response to those recommendations, or any written requests of the council, within 10 working days. The bill would impose certain requirements on facilities relating to the promotion of resident councils, as specified. The bill would prohibit facilities from willfully interfering with the formation, maintenance, or promotion of a resident council, as specified. The bill would require this provision to be posted in a prominent place, as specified. The bill would provide that a violation of these provisions regarding resident councils is not a crime, but would impose a daily \$1,000 civil penalty for violations of these provisions, as specified.

Existing law prohibits a facility from prohibiting the formation of a family council, which is defined to mean a meeting of family members, friends, responsible parties, or agents of 2 or more residents to confer in private without facility staff.

This bill would authorize facility personnel or visitors to attend a family council meeting only at the council's invitation and would require a facility to consider the recommendations made by a family council and respond in writing within 10 days regarding any action or inaction taken in response to those recommendations. The bill would require a facility to provide specified notice regarding the existence of or ability to form a family council and would require the facility to post the provisions of law governing family councils in a prominent place. The bill would prohibit a facility from willfully interfering with the formation, maintenance, or promotion of a family council, or its participation in the regulatory inspection process, as specified. Because a violation of these provisions regarding family councils would be punishable as a misdemeanor, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1569.157 of the Health and Safety Code  
2 is amended to read:

3 1569.157. (a) Every licensed residential care facility for the  
4 elderly, at the request of ~~a majority of its two or more residents,~~  
5 shall assist the residents in establishing and maintaining a  
6 ~~resident-oriented facility~~ *resident council*. The *resident council*  
7 shall be composed of residents of the facility and may include  
8 family members ~~or friends of residents of the facility~~ *residents,*  
9 *advocates, or long-term care ombudsman program representatives.*  
10 *Facility staff or others may participate in resident council meetings*  
11 *and activities at the invitation of the resident council.* ~~The~~

12 (b) A *resident council* may, among other things, make  
13 recommendations to facility administrators to improve the quality  
14 of daily living *and care* in the facility and ~~may negotiate to promote~~  
15 *and protect residents' rights with facility administrators.*

16 ~~(b) A violation of subdivision (a) shall not be subject to the~~  
17 ~~provisions of Section 1569.40, but shall be subject to any other~~  
18 ~~provision of this chapter.~~

19 (c) *A facility shall consider the recommendations of its resident*  
20 *council and shall respond in writing regarding any action or*  
21 *inaction taken in response to those recommendations within 10*  
22 *working days.*

23 (d) *A facility shall respond in writing to any written requests*  
24 *or concerns of its resident council within 10 working days.*

25 (e) *Facility policies on resident councils shall not limit the right*  
26 *of residents to meet independently with outside persons or facility*  
27 *personnel as determined solely by the resident council.*

28 (f) *Each resident council member shall be informed by the*  
29 *facility of his or her right to be interviewed as part of the*  
30 *regulatory inspection process.*

31 (g) *Facilities shall promote resident councils as follows:*

32 (1) *If a facility has a resident council, the facility shall inform*  
33 *prospective and new residents of the existence of the resident*  
34 *council. The facility shall also provide information on the time,*  
35 *place, and dates of resident council meetings and the resident*

1 *representative to contact regarding involvement in the resident*  
2 *council.*

3 *(2) If a facility has a resident council and 16 or more beds, the*  
4 *facility shall appoint a designated staff person to assist the resident*  
5 *council, make a room available for resident council meetings, and*  
6 *provide, in a prominent place, a bulletin board for resident council*  
7 *information.*

8 *(3) If a facility does not have a resident council, upon admission,*  
9 *the facility shall provide, both orally and in writing, information*  
10 *on the resident's right to form a resident council along with a copy*  
11 *of this section to the resident, resident's family, friends, or*  
12 *representative of the resident.*

13 *(h) A facility shall not willfully interfere with the formation,*  
14 *maintenance, or promotion of a resident council, or its*  
15 *participation in the regulatory inspection process. For the purposes*  
16 *of this subdivision, willful interference shall include, but not be*  
17 *limited to, discrimination or retaliation in any way against an*  
18 *individual as a result of his or her participation in a resident*  
19 *council, the intentional scheduling of facility events in conflict*  
20 *with a previously scheduled resident council meeting, failure to*  
21 *notify present or prospective residents of the existence of a resident*  
22 *council or their right to form one, refusal to publicize resident*  
23 *council meetings or provide appropriate space for either meetings*  
24 *or a bulletin board, or failure to respond to written requests by*  
25 *the resident council in a timely manner.*

26 *(i) The text of this section with the heading "Rights of Resident*  
27 *Councils" shall be posted in a prominent place at the facility*  
28 *accessible to residents, family members, friends, and resident*  
29 *representatives.*

30 *(j) A violation of this section shall not be subject to the*  
31 *provisions of Section 1569.40. Notwithstanding any other law, a*  
32 *facility that violates this section shall be subject to a civil penalty*  
33 *of one thousand dollars (\$1,000) for each day the violation*  
34 *continues.*

35 SEC. 2. Section 1569.158 of the Health and Safety Code is  
36 amended to read:

37 1569.158. (a) ~~No~~A residential care facility for the elderly ~~may~~  
38 ~~shall not~~ prohibit the formation of a family council, ~~and, when~~  
39 ~~council. When requested by a member of the resident's family or~~  
40 ~~the resident's responsible party representative, the~~ a family council

1 shall be allowed to meet in a common meeting room of the facility  
2 during mutually agreed upon hours.

3 (b) Facility policies on family councils shall in no way limit the  
4 right of residents and ~~family members~~ *participants in a family*  
5 *council* to meet independently with outside persons, including  
6 members of nonprofit or government organizations or with facility  
7 personnel during nonworking hours.

8 (c) “Family council” for the purpose of this section means a  
9 meeting of family members, friends, ~~responsible parties~~  
10 *representatives*, or agents as defined in Section 14110.8 of the  
11 Welfare and Institutions Code of two or more ~~patients~~ *residents*  
12 to confer in private without facility staff.

13 (d) Family councils shall ~~also~~ be provided adequate space on a  
14 prominent bulletin board or other posting area for the display of  
15 meeting notices, minutes, *information*, and newsletters.

16 (e) *Facility personnel or visitors may attend a family council*  
17 *meeting only at the family council’s invitation.*

18 (f) *The facility shall consider the recommendations made by a*  
19 *family council and shall respond in writing regarding any action*  
20 *or inaction taken in response to those recommendations within 10*  
21 *working days of receiving the recommendations.*

22 (g) (1) *If a facility has a family council, the facility shall include*  
23 *notice of the family council and its meetings in monthly billing*  
24 *statements and at least quarterly in other routine mailings, and*  
25 *shall inform family members, friends, and representatives of*  
26 *prospective, new, and current residents who are identified on the*  
27 *admissions agreement, during the admissions process, or in the*  
28 *resident’s records, of the existence of the family council, the time*  
29 *and place of meetings of the family council, and the name of the*  
30 *family council representative.*

31 (2) *If a facility does not have a family council, the facility shall*  
32 *provide, upon admission of a new resident, both orally and in*  
33 *writing, information to the resident’s family, friends, and*  
34 *representatives of their right to form a family council.*

35 (h) *If a facility has a family council and a licensed capacity of*  
36 *16 or more residents, the facility shall appoint a designated staff*  
37 *person who shall be responsible for providing assistance to the*  
38 *family council and responding to written requests that result from*  
39 *family council meetings.*

1     (i) A facility shall inform family council members of their right  
2     to be interviewed as part of the regulatory inspection process.

3     (j) A facility shall post the text of this section with the heading,  
4     “Rights of Family Councils,” in a prominent place accessible to  
5     residents and family members, friends, and representatives of  
6     residents.

7     (k) A facility shall not willfully interfere with the formation,  
8     maintenance, or promotion of a family council, or its participation  
9     in the regulatory inspection process. For the purposes of this  
10    subdivision, willful interference shall include, but shall not be  
11    limited to, discrimination or retaliation in any way against an  
12    individual as a result of his or her participation in a family council,  
13    the intentional scheduling of facility events in conflict with a  
14    previously scheduled family council meeting, failure to notify  
15    family, friends, or representatives of residents of the existence of  
16    a family council or their right to form one as provided in this  
17    section, refusal to publicize family council meetings or provide  
18    appropriate space for meetings or postings as required under this  
19    section, or failure to respond to written requests by a family council  
20    in a timely manner.

21    SEC. 3. No reimbursement is required by this act pursuant to  
22    Section 6 of Article XIII B of the California Constitution because  
23    the only costs that may be incurred by a local agency or school  
24    district will be incurred because this act creates a new crime or  
25    infraction, eliminates a crime or infraction, or changes the penalty  
26    for a crime or infraction, within the meaning of Section 17556 of  
27    the Government Code, or changes the definition of a crime within  
28    the meaning of Section 6 of Article XIII B of the California  
29    Constitution.